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South Carolina House of Representatives

Legislative Update

David H. Wilkins, Speaker of the House

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CONTENTS

House Week in Review.....2

Bills Introduced.....3

OFFICE OF RESEARCH

Room 309, Blatt Building, P.O. Box 11867, Columbia, S.C. 29211, (803)734-3230

Legislative Update, February 21, 1995

House Week in Review

The House resumed work last Tuesday on H. 3338, a bill to prohibit election officials from receiving items of value from candidates, increase disclosure requirements of certain campaign expenditures, and limit reimbursement of workers providing rides to polling places for voters. While the bill received second reading on Tuesday by voice vote, third reading was not achieved by the end of the week. Two motions to reconsider the vote by which the bill was given second reading were tabled, but on Thursday the House voted to adjourn debate on the measure until Tuesday, February 21. As in the previous week, several members expressed concern about limiting payments to persons driving voters to the polls, while others had questions concerning when election officials would and would not be prohibited from accepting items of value from candidates.

Among the bills given second reading by the House last week were H. 3026, which provides for removal of members of state boards, commissions, etc. who have 3 unexcused consecutive absences from meetings; H. 3037, which creates the offense of child endangerment (a crime in which a person operates a motor vehicle while DUI and DUS and a minor is present in the vehicle); and H. 3204, which removes an exception for the statute of limitations on civil actions, so that the exception no longer applies to persons imprisoned on a criminal or civil charge or in execution under sentence of a criminal court for a term less than his natural life.

Also during this past week, the House Ways and Means Committee, following considerable debate, issued its recommendations for the proposed state budget for Fiscal Year 1995-1996 (July 1, 1995 through June 30, 1996). This \$4.1 billion proposal reflects a 3.68 percent increase (about \$145 million) over current year General Fund appropriated funds. Among other things, the proposed budget provides \$145 million for increasing the homestead exemption for owner-occupied homes by an estimated average of \$20,000; cuts \$65 million in recurring appropriations from state agency budgets; and imposes a hiring freeze on state agencies (with exceptions made for teaching positions, those employed in providing 24-hour custody or care, and certain other positions). The proposal also would revamp the state's video poker operations; as examples, under these provisions the video poker license fee would double from \$1,500 to \$3,000, while 8 machines would be permitted per location. These figures may change, however, once the full House takes up the budget bill. It is expected that the budget bill will be taken up by the full House beginning on Monday, March 6.

Legislative Update, February 21, 1995

Bills Introduced

The following bills were introduced in the House last week. Not all bills introduced last week, however, are featured here. The bill summaries are arranged according to the committee to which the legislation was referred.

AGRICULTURE, NATURAL RESOURCES AND ENVIRONMENTAL AFFAIRS

Permits to Construct or Expand Solid Waste Recycling Facilities (H. 3597, Rep. Worley). This bill prohibits the Department of Health and Environmental Control from issuing a permit to the governing body of a county to construct a new solid waste facility or to expand an existing solid waste recycling facility, if that county currently is being served by a similar solid waste recycling facility owned by a private entity.

South Carolina Environmental Audit Act of 1995 (H. 3624, Rep. Sharpe). This bill is designed to promote and encourage owners and operators of facilities and persons conducting other activities under various environmental laws to conduct voluntary internal environmental audits of compliance programs or management systems and assess and improve compliance with such statutes to further protect and enhance the State's environment and general welfare.

The bill establishes an environmental audit privilege, which protects the confidentiality of communications relating to these voluntary audits. Under these provisions, an "environmental audit" is a voluntary, internal evaluation or review of a facility (or facilities) or activities at such facilities regulated under environmental law, or of compliance programs or management systems related to the facility or activity if designed to identify and prevent noncompliance with these laws. Environmental audit reports, and information derived thereof, are privileged and not admissible as evidence in a legal action including a civil, criminal or administrative proceeding, except in circumstances as listed in the paragraph immediately below.

The bill permits the owner or operator of the facility to expressly waive this privilege and further provides that in a civil, criminal or administrative proceeding, the court may require disclosure if sought after

Legislative Update, February 21, 1995

June 1995 and (1) the privilege is asserted for a fraudulent purpose; or (2) even though subject to privilege, the material shows evidence of noncompliance with environmental laws; the facility owner or operator has not promptly initiated action to achieve compliance with the laws or completed the necessary permit application; and thus the owner or operator did not or will not achieve compliance or complete the necessary permit applications within reasonable time.

A party asserting that the report is privileged has the burden of proving that the materials constitute an environmental audit report, while a party, solicitor or the Attorney General seeking disclosure of the materials has the burden of proving the conditions for disclosure as set forth in this bill.

EDUCATION AND PUBLIC WORKS

Non-Partisan Election of School Board Trustees (H. 3584, Rep. Allison). This bill requires members of school district boards of trustees, beginning this year, to be elected in non-partisan elections occurring on the first Tuesday after the first Monday in November. Current board members whose terms expire in a different month of the year would continue to serve until expiration of their term, at which time the seat would be filled by non-partisan election. Candidates for these offices which are filled by nonpartisan election on this act's effective date must be nominated by the method provided by law for that office, while candidates for offices filled by partisan election at the time this act becomes effective must be nominated either by petition or by filing a declaration of candidacy with the appropriate election commission or authority conducting the election.

The bill prohibits a candidate for an office on the school district board of trustees from soliciting or accepting anything of value (such as a contribution, gift, etc.) from a certified political party or from any person or entity acting for or on behalf of a certified political party. Additionally, the candidate, a candidate's committee, or person or entity acting for or on behalf of a candidate or his committee cannot publish or distribute campaign literature which states, suggests or implies party affiliation.

Study of Safety of Elevated Vehicles (H. 3589, Rep. McTeer). This joint resolution directs the Department of Public Safety to study whether "legally elevated" motor vehicles traveling along the state's highways are a safety hazard. The findings of this study, along with any recommendations, are to be submitted to the General Assembly through the House Education and Public Works and Senate Transportation Committees by January 1, 1996. (Under current law, no person may drive a passenger motor vehicle on the State's highways if the vehicle has been elevated or lowered either in front or back

Legislative Update, February 21, 1995

more than 6 inches by modification, etc. of the physical structure of the vehicle, although this restriction does not apply to pickup trucks.)

School Board May Promulgate Regulations Establishing School Uniform or Uniform Dress Policy (H. 3601, Rep. J. Brown). This bill authorizes a school district board of trustees to promulgate regulations establishing a school uniform or uniform dress policy. The board also would be empowered to promulgate regulations by which the district's elementary, junior and middle schools may adopt either uniform policy. Before a school establishes a dress code requiring every student to wear uniform dress, however, the specific uniform dress must be determined in consultation with the School Improvement Council and the parents of the students attending the school. Furthermore, the policy cannot be implemented with less than 3 months' notice to parents and unless a method is initiated for assisting students who cannot afford to purchase the uniform or uniform dress.

Revised Membership of Commission on Higher Education (H. 3607, Rep. Allison). This bill revamps the membership of the Commission on Higher Education, gives the Commission additional duties, and calls for creation of a joint legislative committee to study higher education in this state.

Under these provisions, the Commission would consist of 19 members. 12 members would continue to be appointed by congressional district (with 2 members from each of the state's 6 congressional districts). However, the current method by which 6 "at-large" members are appointed to the Commission would be changed, so that the governor would appoint (with the advice and consent of the Senate) 6 ex-officio members representing the state's public colleges and universities. Equitable representation by sector must be given on the Commission by appointing members from the public senior research institutions, 4-year public institutions of higher learning, and technical colleges or the State Board for Technical and Comprehensive Education. These 6 members would be appointed as terms of the current "at-large" members expire. The bill provides for the terms and qualifications of these 6 members and also requires the governor to appoint, again with the advice and consent of the Senate, an ex-officio member who represents independent colleges and universities.

The bill grants to the Commission additional duties as pertains to the public institutions of higher learning, such that the Commission must (1) establish procedures for transferability of courses at the undergraduate level between 2 and 4-year institutions; (2) coordinate with the State Board of Education in approval of secondary school courses for the purpose of determining college entrance requirements; and (3) review undergraduate admissions standards for in-state and out-of-state students.

Also under these provisions, recommendations of the Commission concerning policies and other matters concerning public institutions of higher learning must be made to the governor's office, instead of to the Budget and Control Board, and the House Ways and Means and Senate Finance Committees are permitted to refer requests of institutions for

Legislative Update, February 21, 1995

appropriations or programs to the Commission. The executive director of the Commission is to be appointed by the Commission, subject to dismissal without cause and not subject to the State Grievance Procedure.

The bill also establishes a joint legislative committee to study the governance and operation of higher education in this State and the institutional structures of higher education. Of the committee's 12 members, 4 consist of House members, 4 are Senators, and 4 must be appointed by the governor. The bill provides for qualifications of committee members and staffing of the committee and requires the committee to convene by July 1 of this year. The committee must conduct a comprehensive review of the current governance of higher education and examine national trends and reform efforts in governance of higher education; lines of authority and the relationship between the boards of trustees of public institutions and the Commission; and how higher education opportunities currently are provided to South Carolina students. The committee must conclude its work and issue its final report by January 1, 1996, with the final report serving as the decennial report of the Commission on Higher Education. The final report must be submitted to the House Education and Public Works and Senate Education Committees, and upon submission of the final report, this joint study committee is dissolved.

Technical Education Commission Can Provide Vocational Education Training to High School Students (H. 3615, Rep. Harvin). This bill allows the board of trustees of a school district to contract with the technical education commission serving the area within which the district is located to provide vocational education training to the district's high school students. However, if the school district does not have fiscal autonomy, the district's board of trustees first must have the consent of the county governing body in order to be able to contract with the area vocational education commission for these purposes. Funds generated from property taxes for school purposes may be used to provide this training. Additionally, the area technical commission must be reimbursed by the State through the State Board for Technical and Comprehensive Education for the number of high school students attending such vocational training, with this reimbursement being in the same manner the area technical education commission is reimbursed for other students attending technical training.

Local School Superintendent To Request Felony Record of School Employees on Annual Basis (H. 3616, Rep. Stoddard). This bill requires a local school superintendent to request the felony criminal history conviction record of a school employee on an annual basis from the State Law Enforcement Division (SLED). This service must be provided to the school superintendent without charge.

Aeronautics Division To Assume Control of State Aircraft (H. 3617, Rep. Hallman). This bill requires the Aeronautics Division of the Department of Commerce to assume control and supervision over all aircraft owned, operated and maintained by the State, its departments, agencies and institutions. However, these provisions would not apply to aircraft operated

Legislative Update, February 21, 1995

by the Department of Commerce, Department of Public Safety, Department of Natural Resources, and the State Law Enforcement Division.

JUDICIARY

Annexation of Airport Districts (H. 3578, Rep. Wilkins). This bill prohibits a municipality from annexing any real property owned by an airport district consisting of more than 1 county without the prior written approval of the district's governing body and specifies that a municipality cannot annex any real property owned by the Greenville-Spartanburg Airport District unless the prior written approval of the district's commission is obtained.

Legislator Deemed To Have Resigned Seat Upon Filing for Office of Honor or Profit Filled by Election of General Assembly (H. 3579, Rep. Wilkins). This bill provides that a member of the General Assembly is deemed to have resigned his seat when he files as a candidate for an office of honor or profit which is filled by vote of the General Assembly.

Racketeer Influenced and Corrupt Organizations Act (H. 3580, Rep. Wilkins). This bill would prohibit anyone from engaging in or profiting from racketeering activity. Under these provisions, "racketeering activity" is an action in which one commits, attempts or conspires to commit or aid in a variety of crimes (such as murder, kidnapping, robbery, fraud and drug trafficking). No person is permitted to knowingly or intentionally receive proceeds derived from racketeering; acquire or maintain, through racketeering, an interest in or control of property or an enterprise or proceeds derived from them; or be employed by, associated with, or engaged in activities of an enterprise through racketeering. Anyone violating these prohibitions is guilty of the felony of corrupt business influence, punishable upon conviction by imprisonment not exceeding 10 years and/or a fine not exceeding \$100,000. If the person engages in conduct through which he derived monetary gain or which causes personal injury, property damage or other loss, then he may be fined \$100,000 or not more than 3 times the gross value of the gain or loss (whichever is greater), along with costs of the investigation and prosecution reasonable incurred. The prosecuting attorney in a county where the racketeering violation occurs may bring an action in that county to enjoin this violation, and if the court finds that such a violation has occurred, it could order a number of remedies (such as ordering the defendant to divest himself or any interest in any enterprise or property, imposing reasonable restrictions on the defendant's future activities or investments, or ordering the dissolution or reorganization of any enterprise).

The bill authorizes the prosecuting attorney in a county where any of the property is located to bring an action for the forfeiture of property used or intended for use in racketeering or which is derived from or realized through such activity. Property forfeited under this provision

Legislative Update, February 21, 1995

would be forfeited to the State, with the court specifying the manner of disposition of the property, including the manner of disposition if the property is not transferable for value. Property subject to forfeiture under this act must be seized by a law enforcement officer upon court order, but under certain conditions seizure may be made without court order (such as when the seizure is incident to a lawful arrest or search). Distribution of proceeds from these forfeitures is as follows: 75 percent to the law enforcement agency (or agencies); 20 percent to the prosecuting agency, and 5 percent to the State Treasurer for deposit to the State's general fund.

If a person holding a valid lien, mortgage, security interest or interest under a conditional sales contract did not know or have reason to believe that a property was the object of the offense of corrupt business influence, then the court must determine whether the secured interest is equal to or in excess of the property's appraised value. The bill provides for determination of that value and states that if the amount due to the secured party equals or exceeds the property's appraised value, then the court must order the property released and conveyed by deed to the secured party. If, however, the amount due that party is less than the appraised value, then the holder of the interest may pay into the court an amount equal to the owner's equity (difference between the appraised value and amount of the lien, mortgage, security interest or interest under a conditional sales contract. Upon payment, the State and/or applicable law enforcement agency must relinquish claims to and convey by deed to the property of the secured party. In cases where the secured party does not pay the owner's equity, the court then would order the property be sold by judicial sale, with proceeds from the sale above that necessary to satisfy the lien or security interest to be paid as listed above (75% to law enforcement, 20% to the prosecuting agency, and 5% to the State).

Revised Definition of "Regulation" and Related Matters (H. 3581, Rep. Sharpe). This bill revises the definition of regulation and procedures pertaining to adoption of regulations, as follows:

---Expands the definition of "regulation," currently meaning certain agency statements which implement or prescribe law, policy or practice requirements of an agency, to include, at a minimum, tests, methods, criteria or guidance explaining statutory or regulatory requirements used in permitting or licensing matters. However, this definition is not to be construed as granting any additional authority to an agency beyond those powers expressly conferred or necessarily implied from the agency's statutory authority. Specifies that "regulation" does not include criteria or guidance that merely interprets existing requirements but also deletes a provision stating that regulation does not include decisions or orders in licensing matters.

---Requires a notice given for an upcoming public hearing to include a narrative preamble and the text of the proposed regulation (as currently opposed to either the text or synopsis of the proposed regulation), with the preamble including a section-by-section discussion of the proposed

Legislative Update, February 21, 1995

regulation and a justification for any provision not required to maintain compliance with federal law (such as grant programs). Also provides that the statement of the need and reasonableness of the regulation, also required in this notice, must be determined based on factors as specified in the Code (such as costs and benefits associated with regulation, effect of the regulation on the cost of living of an area, etc.)

---Provides that if an official presiding over a public hearing concerning the reasonableness of a regulation determines that need for or reasonableness of a proposed regulation has not been established, then the agency promulgating the regulation must do one of the following: (1) modify the proposed regulation by including the suggested modifications of the presiding official; (2) not modify the proposed regulation based on the presiding official's suggested modifications, in which case the agency must submit to the General Assembly, along with the promulgated regulation submitted for legislative review, a copy of the presiding official's written report; or (3) terminate the promulgation process for the proposed regulation by publication of a notice in the State Register, with termination effective upon such publication.

---Requires a request by legislators for an assessment report on a regulation with a substantial economic impact to be made before submission of a proposed regulation to the General Assembly for legislative review. Allows the legislative committee to which the promulgated regulation has been referred to send (by majority vote) written notification to the promulgating agency that the committee cannot approve the regulation until an assessment report is prepared and provided to the committee. This notification tolls the running of the 120 day legislative review period, with the period not resuming until the assessment report is submitted to the committee. Upon receipt of the report, additional days must be added to the days remaining in the 120 day review period, if less than 20 days, to equal 20 days.

---Provides that any regulation submitted to the General Assembly for review cannot be withdrawn or modified by the agency except upon written notification by a committee that the committee, by majority vote, cannot approve the regulation in the form submitted.

---If adopted, these provisions would take effect upon approval of the governor and would apply to any regulation which has not been submitted to the General Assembly for legislative review.

Conditions for Acceptance of Deeds to Roads by Counties or Municipalities (H. 3594, Rep. Harrison). This bill provides that before a county or municipality (hereafter called "entity") may accept a deed to a road, the entity must allow 6 months from the date of completion of construction. Any deed to a road accepted by the entity is null and void unless the general contractor constructed the road has been fully paid for all work performed in building or improving the road. These provisions,

Legislative Update, February 21, 1995

however, do not prohibit an entity from pledging a conditional acceptance of deed.

No Use of "Peeping Tom" Devices (H. 3595, Rep. Phillips). This bill revises the state's "Peeping Tom" law so as to prohibit the use of a device to invade the privacy of a person when that person has a reasonable expectation of privacy.

State Law Enforcement Division Must Develop and Implement Instant Background Check System (H. 3596, Rep. Kirsh). This bill requires the State Law Enforcement Division (SLED) to develop and implement an instant background system, the purpose of which is to identify in an expeditious manner any person prohibited from receiving a handgun under federal, state or local law. This system must be accessible to South Carolina's licensed firearm dealers. Any request for this background information must be filed with SLED, and SLED must complete a criminal background check on a person before sale, delivery or transfer of a handgun to that person.

Allocation of Fines and Assessments for Cases Transferred to Magistrate's or Municipal Court (H. 3598, Rep. Klauber). This bill requires that when certain criminal cases are transferred from general sessions court to municipal court, the portion of any fines and assessments imposed by the presiding municipal judge that would have gone to the county where the municipality is located instead must go to that municipality. The bill also specifies that provisions pertaining to issuance of fines and assessments for cases transferred from general sessions to municipal court must not result in increased compensation for a municipal judge presiding over the case nor in additional or increased costs to the municipality.

Exemption from Prohibition Against Magistrate Sentencing Persons to Certain Consecutive Terms (H. 3600, Rep. Fair). Under these provisions, the current prohibition against a magistrate being able to sentence anyone to consecutive terms of imprisonment totalling more than 90 days would not apply to convictions pertaining to fraudulent checks or forgeries involving checks when these offenses are within the jurisdiction of the magistrate's court. For purposes of these provisions, "check" means a check, draft or other written order drawn on a bank or depository.

Legislator May Not Cast Vote for Himself in Election Where He Is Candidate for Office Elected by General Assembly (H. 3605, Rep. Wilkins). This bill prohibits a member of the General Assembly from casting a vote for himself in an election in which he files as a candidate for an office which is elected by the General Assembly.

Vacation Time Sharing Ownership Plans (H. 3606, Rep. Richardson). This bill revises the definition of "vacation time sharing ownership plan," such that this plan may consist of a term of years and is an interest in that property. The bill also allows a vacation time sharing ownership plan to be created in a condominium established on a term of years or leasehold interest having an original duration of 30 years or longer, and provides

Legislative Update, February 21, 1995

that an interest in such a plan is recognized as an interest in real property for all purposes under South Carolina law. The bill deletes a provision stating that this plan is subject to supplemental agreement or contract for use of the time share unit. Also under these provisions, the definition of "vacation time share leasing plan" is revised such that this lease does not convey an interest in real property.

South Carolina Family Independence Act of 1995 (H. 3613, Rep. Wilkins). This bill sets the State's Welfare Policy, provides a means of child support enforcement through license revocation, and an administrative process for establishing and enforcing paternity and child support.

In the area of welfare policy, the bill directs the Department of Social Services (DSS) to change its operation so that its major emphasis is on employment and training, with a minor emphasis on the welfare component. Each adult AFDC recipient must sign an agreement indicating actions the recipient must take to become employed and the time frames for completing these actions. The agreement also must described services DSS is to provide or coordinate to assist the recipient in becoming employed. Applicants for welfare assistance must be referred to an employment or training unit, with the applicant required to conduct a job search and provide evidence of this search. An applicant who has been employed 12 of the previous 24 months or who has graduated from high school or obtained a GED must be considered job ready and must enroll in a job club, with applicants who are not job ready or a job ready participant to be evaluated for barriers to employment.

Among other provisions, DSS also must provide relocation assistance to families who live in communities where few job opportunities exist. Payments or portions of cash assistance to AFDC recipients may instead be paid as a wage subsidy to employers to help the employer supplement the wage paid to the AFDC recipient. For purposes of expanding job training activities, 50 percent of all Title II Job Training and Partnership Act funds must be expended on AFDC recipients. AFDC benefits may be terminated if a recipient fails without good cause to comply with the employment and training requirements in their agreement, with the bill listing conditions under which a recipient has good cause for failing to comply with the employment and training requirements (such as if the recipient is at least 6 months pregnant or is caring for an incapacitated person).

DSS also must apply for a federal waiver authorizing AFDC benefits to be limited to a maximum of 24 months out of 120 months (except for individuals involved in an approved training program), and no more than 60 months in a lifetime. The bill establishes an asset limit for AFDC families equal to \$5,000 (including value of their vehicles); allows families on AFDC and those not on AFDC but whose income is less than 185 percent of the federal poverty level to own an individual development account up to \$10,000 for education, job training or home purchases; prohibits additional benefits for children born 10 or more months after the family begins to receive AFDC; requires recipients under age 18 to enroll in school; and requires minor mothers with a child born out of wedlock to live in the home of a parent or

Legislative Update, February 21, 1995

guardian as a condition of eligibility for AFDC benefits. DSS also must apply for a federal waiver to require AFDC and Medicaid applicants and recipients to provide certain information (such as first and last name of absent parent and putative father).

As for child support enforcement through license revocation, the bill provides for revocation of professional licenses (i.e., licenses to engage in a business, occupation or profession); driver's licenses; hunting, fishing and trapping licenses; and watercraft registrations of persons in arrears of child support no more than 2 months' worth of support. If the person is out of compliance with an order for support, then his license must be revoked unless within 90 days of receiving notice of noncompliance he pays the arrearage or signs a consent agreement with the Division of Child Support Enforcement of DSS establishing a schedule for payment of the arrearage. A licensee may appeal a license revocation pursuant to the Administrative Procedures Act, with the appeal, however, limited to whether the licensee is the individual required to pay the support and whether the licensee is out of compliance with the support order. Licensing entities must provide the Division information (such as name, type of license) on licensees for use in enforcing child support obligations.

The bill also lists provisions pertaining to establishment and enforcement of paternity and child support. The director of the Division of Child Support Enforcement of DSS must issue a notice of financial responsibility to an obligor who owes a child support debt or is responsible for support of a child on whose behalf the custodian of that child is receiving support enforcement services from the Division pursuant to Title 4-D of the Social Security Act. An obligor served with this notice must appear at a negotiation conference or, if objecting to any part of the notice, may make a request for a court hearing to the Division. The bill lists conditions under which paternity genetic testing may be ordered and lists a procedure for seeking modification of existing child support orders.

The bill also provides for collection by hospitals of information pertaining to voluntary acknowledgments of paternity and requires paternity acknowledgments to be provided to DSS upon request, without charge, for the purpose of establishing a child support obligations, with such acknowledgments otherwise not subject to inspection except upon order of the Family Court.

Enforcement of Seat Belt Law (H. 3626, Rep. Stille). This bill deletes provisions which authorize a law enforcement officer to stop a person for violation of the state's mandatory seat belt law when the stop is made in conjunction with a driver's license check or registration check conducted at a checkpoint established to stop all drivers on a road for a period of time.

Creation of Committee To Study Liquor by the Drink (H. 3628, Rep. Thomas). This joint resolution creates a 5-member study committee to examine state law relating to requirements for transportation, possession and

Legislative Update, February 21, 1995

consumption of alcoholic liquors in minibottles and amendments to state law as pertains to alcoholic liquor by the drink. Members of the committee are as follows:

- (A) 1 member appointed by the governor;
- (B) 2 members from the House, with 1 being a member of that body's Judiciary Committee and 1 being a member of that body's Labor, Commerce and Industry Committee (with each appointment made by the respective committee chairman); and
- (3) 2 members from the Senate, with 1 being a member of that body's Judiciary Committee and 1 being a member of that body's Labor, Commerce and Industry Committee (with each appointment made by the respective committee chairman).

Committee members would receive the usual per diem, mileage and subsistence paid to members of state boards, commissions and committees. Expenses of the committee's legislative members must be paid from accounts of their respective bodies, while expenses of the member appointed by the governor must be paid from funds appropriated to the governor's office.

This committee must report its findings to the General Assembly no later than February 1, 1996, and terminates when the report is made.

Conforming of Provisions of Law to New South Carolina Rules of Evidence (H. 3632, Rep. Jennings). This bill conforms various provisions of law with the new South Carolina Rules of Evidence (which govern evidentiary matters in the state's courts) promulgated by the State Supreme Court, with these rules taking effect September 3 of this year. As an example of a change in law to conform with these new rules of evidence, this bill specifies that as pertains to competency of spouses as witnesses in legal proceedings, spouses are competent to testify because under new rules of evidence every person is deemed so competent unless otherwise specified. The bill also provides that in event of conflict between a provision of the South Carolina Rules of Evidence and other statutory provisions of law relating to evidentiary matters not amended or repealed under these provisions, the provision of these rules must control.

Economic Self-Sufficiency and Parental Responsibility Act of 1995 (H. 3633, Rep. Shissias). This bill represents an effort to reform the state's welfare policy, such that the welfare system provides tools and services which encourage families in poverty to become economically independent, while at the same time imposing fair and meaningful sanctions to discourage abuse of the welfare system. This bill is divided into three parts---State Policy, Self-Sufficiency, and Parental Responsibility---with these parts summarized below as follows:

(I) State Policy

---States it is the policy of South Carolina to structure the welfare system to maximize the potential of families in poverty to become

Legislative Update, February 21, 1995

economically independent, while at the same time discouraging abuse of the system through sanctions. Also makes it State policy to make employment and entrepreneurial opportunities available to AFDC recipients, noting that provision of education and training to AFDC families is meaningless without available work opportunities.

(II) Self-Sufficiency

---Requires DSS (Department of Social Services) to expand its Work Support Program to all 46 counties.

---Requests DSS to apply for a federal waiver so that an AFDC recipient may be required to participate in the Work Support Program when the parent's youngest child is 1 year old, as currently opposed to 3 years old.

---Directs DSS to seek a federal waiver to revise the Work Support and AFDC program to implement a self-sufficiency program in all 46 counties providing individualized plans and intensive case management to help clients find work and be given appropriate services. Also requires imposition of sanctions on clients who refuse to comply with their individualized plans, such that a client refusing to comply with a plan a second time facing termination of AFDC benefits, with reinstatement coming only when he agrees to comply, although the client would still be eligible for Medicaid.

---Directs DSS to seek a federal waiver increasing from \$1,000 to \$3,000 the amount of assets a family may have; removing the \$1,500 limit on the value of a car owned by an AFDC family; and allowing the State to exclude a family's interest income and dividends, and income earned by a minor child attending school, in determining AFDC eligibility/payments.

---Allows AFDC families and those not on welfare but whose household income is below 185 percent of the federal poverty level to own an Individual Development Account, a tax-free account allowing savings up to \$10,000 for purposes of education, job training or buying a home.

---Directs DSS and the Department of Commerce to work with private industry and the business community to obtain employment for AFDC clients, with such programs involving incentives (such as transportation to work site for AFDC clients and vouchers for day care).

---Directs DSS to seek federal funds for entrepreneurial development to create jobs and incentives for AFDC clients for purposes of becoming self-sufficient, with the project creating jobs in identified markets for AFDC clients, assisting clients in developing expertise in operating businesses, and allowing clients to accrue savings, buy stock in a business, or purchase a business.

---Directs DSS to seek a federal waiver to revise income requirements for families on AFDC, such that DSS would disregard 50 percent of a family's

Legislative Update, February 21, 1995

total gross income until the remaining 50 percent exceeded the amount of income allowed for AFDC eligibility, as opposed to the current disregard of 33-1/3 percent for 4 months.

---Directs DSS to seek a federal waiver to enact a transition program so that AFDC benefits are reduced gradually for those clients who are employed but lack sufficient income to avoid returning to AFDC after abrupt loss of AFDC benefits. Under the transition program, AFDC day-care and Medicaid benefits would continue, but economic benefits would be reduced each quarter after the family's income exceeds net income allowed for AFDC eligibility, with the family receiving the following benefits: 1st quarter: 20 percent of maximum AFDC award for family size; 2nd quarter: 15 percent; 3rd quarter: 10 percent; 4th quarter: 5 percent.

---Provides for distribution by DSS of amounts collected by its Division of Child Support Enforcement for children and their parents who currently are AFDC recipients. For example, of amounts collected representing monthly monetary support obligations, the first \$100 of the monthly payment must be paid to the AFDC family and thereafter must be increased by \$50 monthly per year up to the amount of the monthly support obligation.

---Directs DSS to seek a federal waiver allowing it to impose a 36-month limit on receiving AFDC benefits. This 36-month limit would not apply, however, if the head of household is (1) working 30 hours a week; (2) permanently or totally disabled (whether mental or physical); (3) unable to obtain employment in the private sector but is working 40 hours per month in volunteer public sector community placement; (4) providing full-time care at home to a disabled dependent; or (5) unemployed because Work Support programs are not available.

---Directs DSS to develop programs providing information and assistance available on support services to low income families; directs the General Assembly to appropriate funds to match federal child care money; and directs DSS in conjunction with other entities to endorse local efforts to develop a statewide network of mass transit systems (to help AFDC recipients get to work).

(III) Parental Responsibility

---Directs DSS to apply for a federal waiver eliminating the "no daddy" rule, under which a family is ineligible for AFDC benefits if both parents live in the home and neither is disabled.

---Requires an unemployed or underemployed noncustodial parent to participate in the Work Support Program.

---Requires the Department of Health and Environmental Control to establish a task force of reproductive health care providers and professionals to develop incentives to increase physicians' participation

Legislative Update, February 21, 1995

in Medicaid (to provide better access to family planning/prenatal care for Medicaid clients).

---Directs the State, so as to allow AFDC families to direct their efforts at becoming self-sufficient rather than diverting resources to care of family members with health or medical problems, to engage in a number of activities to improve access to health care (such as eliminating barriers to good prenatal care and expanding hours of public health clinics).

---Requires the DSS Work Support Program to include classes on parenting skills and daily living skills (such as money management and family relationships).

---Directs the Department of Health and Human Services, in conjunction with other agencies, to establish a program for adolescent pregnancy prevention.

---Requests concept of family planning to be expanded to include more education on such matters as abstinence, pregnancy spacing and sexually transmitted diseases, with DHEC developing a set of clinical, educational and method-oriented family planning services for males and females.

---Requires DHEC to make family planning services available to women whose household income is below 185 percent of the federal poverty level by the year 2001.

Restrictions on Election of Legislators to Certain Offices (H. 3636, Rep. Rogers). This bill prohibits a member of the General Assembly, or a former member for 2 years after the end of his term, from being elected to an office of honor or profit which the General Assembly elects.

Repeal of Prohibition Against Magistrate Sentencing Persons to Certain Consecutive Terms (S. 101, Sen. Leventis). This bill provides that a magistrate also has jurisdiction of all offenses which may be subject to both fine and imprisonment (with the maximum fine being \$500 and maximum imprisonment being 30 days) and accordingly may sentence a person to both fine and imprisonment. (Current law grants a magistrate authority over offenses which may be subject to penalties of maximum \$500 or maximum 30 days in jail and allows him to impose a sentence within those limits, whether singly or in the alternative.) The bill also deletes the current prohibition against magistrates being able to sentence anyone to consecutive terms of imprisonment totaling more than 90 days.

County Grand Juries Empowered To Investigate Certain Offenses (S. 265, Sen. Stilwell). This bill provides for the empowering of county grand juries to investigate crimes involving controlled substances; white collar crimes or nonviolent crimes by corporations or individuals; public corruption; election laws; and environmental laws. (These provisions are identical to S. 787, which passed the Senate last March but subsequently died in the House Judiciary Committee.)

Legislative Update, February 21, 1995

The bill allows the solicitor to petition to the chief administrative judge of his judicial circuit for an order empowering a county grand jury to investigate these offenses. The petition must allege the type of offenses to be inquired into and specify that the public interest is served by the empowerment. The chief administrative judge (known as the "empowering" judge under these provisions), after consideration of the petition, may order the empowerment of the county grand jury in accordance with the petition and must preside over that jury during his tenure as chief administrative judge. The presiding judge may discharge a county grand jury empowered under these provisions prior to the end of its original term or extension upon determination that its business has been completed or upon request of the solicitor. Additionally, the presiding judge, upon his determination that the county grand jury is not conducting its investigative activity within its proper jurisdiction or proper investigative activity, may limit the investigation so that it (the investigation) conforms with the jurisdiction of the jury, or he may discharge this jury.

The solicitor, in serving as legal advisor to the empowered county grand jury, must examine witnesses, present evidence and draft indictments and reports upon the direction of the empowered jury. The solicitor also may request the clerk to issue subpoenas or subpoenas duces tecum to compel individuals or materials to be brought from anywhere in South Carolina to the empowered jury. Any person violating a subpoena or subpoena duces tecum issued pursuant to this act, or who fails to answer fully all questions put to him before proceedings of the empowered jury where the response is not privileged or otherwise protected by law may be punished by the presiding judge for contempt. The clerk may also issue subpoenas and subpoenas duces tecum to compel individuals and materials to be brought from anywhere in South Carolina to the trial of any indictment returned by a county grand jury or the trial of a civil forfeiture action arising out of an investigation conducted by a grand jury empowered under these provisions.

These provisions also require a court reporter to record all proceedings of these empowered juries except for deliberations of and voting by the jury. However, an unintentional failure of any recording to reproduce all or any portion of the testimony or proceedings does not affect the validity of the prosecution.

If a person seeks to be excused from testifying before or producing materials for an empowered jury on grounds of incrimination or that such activity would subject him to forfeiture, and he is directed by the presiding judge to give the testimony or materials, then he must comply with the judge's order but must not thereafter be prosecuted or subjected to a penalty or forfeiture on account of anything pursuant to which he may testify or produce evidence. Additionally, no testimony so given or evidence produced may be received against him in any criminal action, investigation or proceeding. However, the individual would not be exempt from prosecution for perjury committed while producing the testimony.

Legislative Update, February 21, 1995

The bill prohibits the solicitor from granting immunity to anyone testifying before the empowered jury unless immunity is first approved in writing by the attorney general. Any additional expenses caused by empowering of a jury under these provisions which would not normally be paid for out of county funds must be paid for out of the solicitor's existing budget.

Probate Costs (S. 356, Sen. Bryan). This bill revises statutes pertaining to probate, as follows:

---Requires fees for estate and conservatorship proceedings to be based upon the gross value of the decedent's probate estate or the protected person's estate. Defines "decedent's probate estate" as the decedent's property passing under his will plus his property passing by intestacy, while a "protected person's estate" means the protected person's property that vests in a conservator as trustee pursuant to the Probate Code.

---Increases from \$15,000 to \$100,000 the amount of bond a probate judge or associate probate judge must enter into, prior to assuming office, to ensure faithful performance of his duties.

---Prohibits a person from being qualified to serve as a personal representative if that person is a probate judge for an estate of any person within his jurisdiction, except for persons with small probate estates (i.e. not exceeding \$10,000 in value)

---Prohibits a probate judge or employee of the probate court from serving as a conservator of an estate of a protected person, although the judge or employee may serve as conservator of the estate of a "family member" (e.g., spouse, parent, child, etc.) if such service does not interfere with proper performance of the judge's or employees official duties.

---Allows, retroactive to August 15, 1994, persons who paid more in estate and conservatorship fees than permitted by this act to obtain a refund equal to the difference between what the person paid and what is due under this act. Persons have 1 year from the effective date of these provisions to seek such refunds.

LABOR, COMMERCE AND INDUSTRY

Requirements for Liens (H. 3582, Rep. Sharpe). This bill revises requirements pertaining to liens for repair and storage of vehicles. The bill specifies that the owner, operator, etc. making repairs may sell the property under these provisions whether the repair contract was written, oral or implied. The bill also requires more information to be provided when notice concerning public auction of repaired or stored property is mailed

Legislative Update, February 21, 1995

to the property owner or lienholder (e.g, notice that charges are due) and specifies how notice is to be provided. When a vehicle or item is impounded, stored or seized by law enforcement, and the owner, lienholder or their agent has not contacted the repair shop within 15 days following the towing, impoundment or seizure of the vehicle or item, then the storage contract is considered terminated, with payment for storage, repair or services due. Storage costs must be charged until the vehicle or item is claimed by the owner, lienholder or agent, or until the vehicle or item is sold at public auction. During the 30-day period, the owner or lienholder may request a hearing by a magistrate of the county where the vehicle or item is stored to contest the charges and fees, but if a hearing is not requested, then the lien must be established by default, and no other hearing is required.

Additionally, the bill provides that the property may be sold by a designated agent of a magistrate. Also, the owner of the vehicle or item is responsible for storage charges from the date the vehicle or item is stored or impounded or repairs are completed if the shop or location complies with requirements to report unclaimed vehicles to the Department of Revenue and Taxation. If, however, the shop or location does not comply with those reporting requirements, then storage cannot be charged until the owner is notified by certified or registered mail. If the identity of the owner or lienholder cannot be determined, then notice by 1 publication in a newspaper of general circulation in the area where the property is stored is sufficient to meet notice requirements. The bill also provides that the purchaser of the vehicle or item takes possession and title free of previous liens. Public auctions of these vehicles/items must be scheduled at a time convenient to the magistrate conducting the auction and may be held at the magistrate's office or the location where the property is stored. The bill deletes a provision authorizing the storage owner, operator, etc. to sell the property at public auction when the value of the property repaired or stored does not exceed \$10.

The bill requires abandoned vehicles, if not sold by the sheriff or chief or police at public auction, to be sold by the magistrate by such auction. Only the agency actually holding the sale is entitled to reimbursement of costs incurred from the auction and related costs (storage of vehicle, etc.). Owners or lienholders of stolen and abandoned motor vehicles are not exempt from liability for towing and storage costs when a vehicle is recovered. The bill also requires an operator of a place of business repairing, storing, etc. vehicles for law enforcement in which the vehicle remains unclaimed for 30 days to report the unclaimed vehicle to the Department of Revenue and Taxation. If an operator of a place of business does not make an abandoned vehicle report to the Department within 5 days following expiration of the 30-day period, then storage is lost until the report is made and a certified or registered letter, with return receipt requested, is mailed to the owner or lienholder. Storage then starts when both the report is made and the letter is mailed to the owner or lienholder.

Legislative Update, February 21, 1995

Exemption from Worker's Compensation Coverage (H. 3599, Rep. Richardson). This bill exempts from the State's Worker's Compensation Law any employees covered by the Longshore and Harbor Workers' Compensation Act.

Creation of Airport Environs Area Within Greenville-Spartanburg Airport District (H. 3604, Rep. Wilkins). This bill creates within the Greenville-Spartanburg Airport District an airport environs area, the purpose of which is to assure land uses compatible with airport operations. The bill lists the boundaries of the airport environs area. The authority created for the airport environs area has the power to adopt, administer and enforce zoning regulations and must develop and enforce building regulations (such as height restrictions and acoustical treatment measures) to provide uses within this area which are compatible with noise, health, safety and welfare considerations arising from airport operations. The authority also must designate a zone consisting of property located closest to the airport in which only industrial and commercial land uses are compatible and must designate other zones within the area and create appropriate regulations and restrictions for such zones as the authority deems appropriate to assure compatible land use. However, no regulation adopted with respect to the area can require the removal or alteration of a structure that, as existing when the regulations were adopted, did not conform to the regulation. Notice must be provided to owners of property located within this area. The authority consists of 12 members, with 2 representatives appointed annually by each county and municipality located within the airport environs area and 2 representatives appointed by the Airport Commission who are commission members.

Designation of Motor Vehicles as "Wreckage" or "Salvage" (H. 3608, Rep. Govan). This bill requires a motor vehicle to be designated as "wreckage" or "salvage" whenever a vehicle qualifying as "wreckage" or "salvage" is transferred in South Carolina, whether the vehicle immediately before such transfer was titled in this State or another state. This designation is designed to inform the transferee of the exact condition of the vehicle. The bill prohibits a wrecked or salvaged out-of-state vehicle or South Carolina-registered vehicle from being registered in South Carolina without such designation, and this designation must be applied to all subsequent transfers of the vehicle..

Registration and Titling of Salvaged Motor Vehicles (H. 3609, Rep. Govan). This bill provides that for purposes of registration and titling of salvaged motor vehicles, South Carolina must follow provisions contained in the federal Anti Car Theft Act of 1992.

Hospital-Based Health Care Services (H. 3631, Rep. Harvin). This bill requires all hospital-based health care services and all health care services provided to patients in or through a hospital provider under a health maintenance organization (HMO) also to be providers under that HMO.

Legislative Update, February 21, 1995

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

Hospital Fair Pricing Act (H. 3583, Rep. Fair). This bill provides a mechanism by which acute care hospitals can purchase services from sole provider hospitals at certain rates.

Under these provisions, a "sole provider facility" is a person or entity which owns or controls 1 or more acute care hospitals, with the hospital(s) providing a health care service or services that are not provided in the county by any other person/entity aside from an affiliate of the facility. A sole provider facility and any of its affiliates offering a health care service not otherwise available in the county must allow another person or entity with an acute care hospital to purchase the service offered by the sole provider facility within that county at whatever offered prices (with respect to providing that service in the county) the other facility selects from time to time. The offered price must be made available without requiring a certain volume of services be purchased and for as long as the respective offered price would have been available with respect to that sole provider service under the terms of any offer. Upon receipt of request from another facility within a county where the sole provider offers a sole provider service, the sole provider facility must provide a statement of all offered prices currently offered or offered in the future by the sole provider facility or its affiliates with respect to each sole health service so offered by the facility or affiliates.

If a sole provider facility or an affiliate thereof violates or threatens to violate these provisions, then the facility which, because of the actual or threatened violation, failed to receive the benefits provided under this act may bring an action to recover damages and/or obtain injunctive relief. When this relief and/or a verdict for damages is obtained, the facility entitled to the damages or relief must be awarded 3 times the actual damages plus reasonable attorney's fees and costs incurred by the facility in bring the claims for damages/injunctive relief. Courts also may issue orders and injunctions to restrain and prevent violations of this act, with these orders and injunctions to be issued without bond.

The bill also provides that in preparation of a State Health Plan for use in administration of the Certificate of Need Program, the plan must include a statement that it is against State policy for a provider obtaining market power in a geographic area in a service because of Certificate of Need laws and regulations to deny a provider in that area who lacks such service access to the service on a basis that will enable full and fair competition in services as to which competition is permitted in that area under the State Plan. Additionally, the plan must include standards to prevent the exercise of or injury from market power that could result from existence of the Certificate of Need program.

Legislative Update, February 21, 1995

Division on Aging To Provide Information to Legislators on Upcoming Conference (S. 330, Sen. Giese). This joint resolution is identical to the House-amended version of H. 3189, which passed the House last week, which directs the Division on Aging of the Governor's Office to provide information to legislators on resource development activities and corporate efforts in legislators' districts which are generating financial support for the Governor's Conference on Aging activities and scholarships for elderly delegates in need of financial assistance. Both joint resolutions also direct the Division on Aging to distribute information and recommendations generated from the upcoming Governor's Conference on Aging (which will be held next month in Myrtle Beach) and the White House Conference on Aging (to be held in Washington this spring) to members of the General Assembly for their use and consideration in developing future aging policy and legislation.

WAYS AND MEANS

Surcharge on Vehicle Registration and Licensing Fees for EMS Purposes (H. 3610, Rep. Spearman). This bill imposes a \$1 surcharge on motor vehicle licensing and regulation fees (\$2 if registration and licensing is biennial), with funds from the surcharge used by the Department of Health and Environmental Control (DHEC) for emergency medical services. The fees must be allocated annually to counties to improve or upgrade their emergency medical service system and to emergency medical service regional councils for administration of training programs and technical assistance to local emergency medical service units. The percentage distribution of these funds is as follows: 83 percent to counties, 14 percent to emergency medical service regional councils, and 3 percent to DHEC for administering the program and establishing and maintaining the emergency medical service data base. DHEC must develop guidelines and administer the system to make these allocations based on demonstrated need.

The bill also prohibits these funds from being transferred to other programs within DHEC's budget and provides that allocation of these funds does not require local matching grants. Additionally, when instructed by the Budget and Control Board or the General Assembly to reduce funds by a certain percentage, DHEC may not reduce these emergency funds to the councils or counties greater than the percentage specified.

Subsistence Allowance for Paid On-Duty Firemen (H. 3618, Rep. Lanford). Current law designates a \$5/day subsistence allowance for county and municipal law enforcement officers for each day of active duty. This bill would also extend that allowance to paid on-duty firemen.

Property Tax Relief (H. 3619, Rep. Boan). This bill represents an effort to bring property tax relief.

Legislative Update, February 21, 1995

Under these provisions, a referendum would be held this November on whether to raise the state sales and use tax from 5 to 6 percent, with revenues from the 1 percent increase placed in a Property Tax Relief Fund in the State Treasury and used to reimburse property taxing jurisdictions. If there are not sufficient revenues available in the Property Tax Relief Fund to reimburse the jurisdictions, then the Comptroller General must pay the difference from the State's general fund. Owner-occupied residences would be exempt from all property taxes except those levied for debt service and lease purchase payments and would be given an exemption from increases in fair market value due to reassessment programs for millage imposed for debt service and lease purchase payments. The bill also eliminates the \$300 sales tax cap on sales and leases of motor vehicles, aircraft, boats, etc., such that under these provisions the sales tax imposed on these items is 4 percent on the first \$6,000 and 6 percent on amounts in excess of \$6,000, but no more than \$750. The maximum sales tax on manufactured homes meeting certain energy efficiency levels is increased from \$300 to \$360. Revenues derived from items with these newly-imposed higher sales tax caps, in excess of such revenues in Fiscal Year 1994-1995, must be credited to the State's general fund. Beginning July 1, 1998, food eligible for purchase with USDA food coupons (not including restaurant meals) would be exempt from sales tax, with the sales tax (until the phase out) on such food being 3 percent in fiscal year 1996-1997 and 1 percent in fiscal year 1997-1998.

The bill requires all interest earned on the state highway fund to be credited to that fund, with all interest revenues to be used for road and highway construction and maintenance but not for payment of administrative expenses.

The bill also contains extensive provisions governing the operation of video poker establishments. Each licensed establishment must contain at least 1,250 square feet of floor area. Credit card payments may not be used to play the machines. All video game machines, by July 1, 1996, must be of a "video lottery terminal variety" (i.e., a machine simulating a game of chance and containing a programmable read-only memory chip that controls the game, communicates all game activity and can be remotely activated by serial data communications). Each machine must have a credit payback value of at least 70 percent, while video games affected by player skill must pay out between 83 and 96 percent of the amount wagered. Persons licensed as machine manufacturers, distributor, operator or licensed establishment may be required to submit to a background investigation as conducted by the Department of Revenue and Taxation, with a person ineligible for licensing if he has been convicted of a state or federal crime relating to gaming or gambling or a crime with a sentence of 2 or more years. Additionally, a 15 percent tax is imposed on gross machine income, remitted to the Department on a weekly basis, with failure to report the amount due a felony punishable by imprisonment of 1 to 5 years and leading to revocation of the license. The Department also must promulgate regulations pertaining to these machines (such as assuring access is only offered to persons 21 and over and prohibiting extension of credit, advances or loans for playing the machines.)

Legislative Update, February 21, 1995

The bill also imposes annual licensing requirements on persons involved in this industry, as follows: Manufacturer--\$5,000; Distributor--\$3,000; Service Entity--\$2,000; Machine Owner--\$1,000; Licensed Establishment--\$100. Except for manufacturers, these licenses cannot be issued unless the distributor, service entity, machine owner or licensed establishment has been a resident of South Carolina for 2 years.

The bill also imposes additional funding requirements on the General Assembly as pertains to K-12 funding. Under these provisions, in addition to regular annual state funding provisions for such education, the General Assembly must appropriate additional amounts as follows: Fiscal Year 1996-1997--\$30 million; FY 1997-1998--\$60 million; FY 1998-1999--\$80 million; FY 1999-2000--\$130 million; Fiscal Years 2000-2001 and thereafter: \$180 million. The bill repeals the local option sales and use tax. The depreciation allowance for manufacturer's equipment and machinery is altered so that the original cost is not reduced more than provided on a sliding scale (e.g., 80% in property tax years before 1996, increasing 2% yearly until the figure reaches 90% for property tax years after 1999). A deduction of 28.5 percent from state income tax payments is offered for amounts received by or attributed to a taxpayer as a result of the taxpayer's status as a shareholder of a subchapter "S" corporation; partner in a partnership; or member of a limited liability company. The bill eliminates the minimum \$85 million threshold for qualifying for fee-in-lieu of taxes, makes utility projects eligible for financing by special source bonds, and phases out the soft drinks tax by July 1, 1998.

The Department is required to collect taxes on properties it assesses on corporate headquarters, office facilities, etc. except for business personal property. All taxable real property in a county must be appraised and equalized once every 3rd year beginning with the 1996 property tax year, and upon completion of the reassessment and equalization program, taxpayers must be notified of any resulting change in value or classification. The bill also revises the property tax appeals process, with the hearing office required to make a determination which is binding on both parties, with the party aggrieved by the officer's decision allowed to appeal to the Administrative Law Judge Division. The bill also allows a county governing body, by ordinance, to transfer to the Department of Revenue and Taxation responsibility for appraisal, assessment and equalization of taxable real property under jurisdiction of the county assessor, in which case the governing body must transfer its employees, duties, functions and related items to the Department.

The bill allows the Department to waive retroactive assessment of a state tax if it determines the taxpayer acted in good faith and that there were reasonable grounds for the taxpayer's interpretation of the applicable law. The Department may waive, dismiss or reduce interest penalties for tax underpayments when the taxpayer establishes he followed professional advice which turned out to be inaccurate; if the taxpayer can establish he did not know he was liable for the tax; or if imposition of the tax is a result of regulation or other interpretation of existing tax laws.

Legislative Update, February 21, 1995

Finally, the bill requires counties, municipalities, and special purpose or public service districts, beginning in fiscal years after June of 1995, to provide notice to the public concerning their upcoming fiscal year budgets by advertising such notice in the largest newspaper of general circulation in the area. The notice must, among other things, set the time, date and place of the hearing; proposed total projected operating expenditures for the next fiscal year; the proposed total projected revenue of all property taxes for the proposed budget; and any new fees or taxes that would affect more than 5 percent of the total proposed budget.

Assessment of Property Titled by a State or Federal Agency (H. 3620, Rep. Boan). This proposed constitutional amendment would establish a separate class of property for purposes of property taxes, consisting of personal property required to be titled by a state or federal agency (not including units of manufactured housing). Under this proposal, such property would be taxed on an assessment of 9 percent of the property's fair market value beginning with the property tax year in the first calendar year following ratification of this constitutional amendment, with the assessment percentage declining by one-half percent each subsequent year until the property tax years beginning after the 4th calendar year following ratification of these provisions, at which time the permanent rate would be 7 percent. Additionally, any determination of fair market value of a motor vehicle assessed pursuant to these provisions cannot be based on the vehicle's mileage. If the General Assembly adopts these provisions, this proposed constitutional amendment would be submitted to the voters at the November 1996 general election.

Reduction of Assessment Ratio on Manufacturing and Utility Property (H. 3621, Rep. Boan). Under current law, real and personal property owned by or leased to manufacturers and utilities and used by them in conducting business is taxed on an assessment equal to 10.5 percent of the fair market value of the property. This bill would reduce the assessment ratio to 9 percent over a 3-year period, as follows: Property Tax Year 1996--10%; Property Tax Year 1997--9.5%; Property Tax Year 1998 and Thereafter--9%. This reduction, however, is contingent on approval of a referendum (as provided in H. 3619) raising the state sales tax to 6 percent effective next July, with revenues from the higher sales tax used to provide property tax relief.

Spending Limits for Counties, Municipalities, Special Purpose and Public Service Districts, and School Districts (H. 3622, Rep. Boan). This bill, beginning with fiscal year 1995-1996, would limit increases in total spending by a county government, municipal government, and special purpose or public service district to the rate of inflation (i.e., the percentage increase in the Consumer Price Index in the 12 months preceding the fiscal year). This spending limitation, however, would not apply, among other things, to spending of funds not derived from local taxes or fees; spending for debt service and lease purchase payments; or spending to offset a prior year deficit. Additionally, the spending limitation could be overridden by a three-fourths vote of the governing body of the entity. The bill also

Legislative Update, February 21, 1995

limits increases in school district revenues from property taxes levied for operating purposes to the Education Finance Act inflation factor, with this limitation also subject to being overridden upon 3/4 vote of the governing body authorized to levy school tax millage in the district and the limitation not applying to such items as property tax revenues for debt service and lease-purchase payments. If this spending limitation is insufficient to permit a school district to meet its maintenance of effort requirement, then additional revenues may be raised by property taxes sufficient to meet the requirement.

Expenditure of Portion of Bingo Fees for Charitable Purposes (H. 3623, Rep. Richardson). This bill requires a minimum of 25 percent of the gross proceeds from the sale of Bingo cards and entrance fees to be expended for charitable purposes.

Temporary Suspension of Certain Appropriations Limits (H. 3629, Rep. H. Brown). In 1993, the General Assembly passed an act commonly dubbed the "Carnell-Felder" proposal which placed limits on the amount of state revenue that could be used to develop the state budget (i.e., general appropriations act). Under "Carnell-Felder", appropriations in the budget cannot exceed actual revenue collections in the prior fiscal year plus 75 percent of the estimated growth in revenue as projected by the Board of Economic Advisors, although revenue enhancements may be added by the General Assembly. This joint resolution would suspend the provisions of "Carnell-Felder" for general fund appropriations for Fiscal Year 1995-1996 and would require additional revenues available for appropriation as a result of this suspension to be used for property tax relief.

Consumption of Liquor in Commercial Aircraft Engaged in Interstate Commerce (H. 3630, Rep. Kelley). Under current law, the prohibition against retail dealers of alcoholic beverages selling, offering for sale, delivering, possessing, etc. alcoholic liquors in containers of quantities under 200 milliliters does not apply to sealed containers of 2 ounces or less when such sales are lawfully authorized to be sold to persons licensed to sell these sealed containers for on-premises consumption. This bill would add another exception to the 200 milliliter restriction, so that this restriction also would not apply to sealed containers of 2 or fewer ounces sold for consumption on commercial aircraft engaged in interstate commerce.

Hiring Freeze and Reduction of Positions in State Government through June of 1997 (H. 3634, Rep. Hutson). This joint resolution imposes a temporary hiring freeze on state government, such that from the period running between this resolution's effective date and June 30, 1997, no vacant position in any state agency, board, committee, commission or institution may be filled, regardless of the funding source for the position. This prohibition, however, does not apply to a vacancy filled by a current agency employee nor to a vacant position which is specifically exempted from this prohibition by the Budget and Control Board.

Legislative Update, February 21, 1995

This joint resolution also directs, effective for fiscal year 1995-1996 (July 1, 1995 through June 30, 1996), each state agency, board, committee, commission or institution authorized more than 20 full-time equivalent positions to reduce the number of these funded positions authorized the agency by 5 percent, with an additional 5 percent reduction applying for fiscal year 1996-1997. The reductions first must be accomplished through attrition and retirements (including any retirement incentives provided by the General Assembly), and if involuntary terminations are required to accomplish this reduction, then the agency must provide job retraining to assist employees in finding other work. Cabinet agencies may take these reductions on an aggregate basis.

Retirement Credit for Service in the Peace Corps (H. 3635, Rep. Rogers). This bill allows a member of the South Carolina Retirement System to establish service credit for time served in the Peace Corps under the same terms and conditions as credit can be established for military service.

WITHOUT REFERENCE

Eldercare Trust Fund (S. 351, Sen. Giese). This is the companion bill to H. 3189, which won House approval on February 15. Under current law, all credited earnings and future deposits to the Eldercare Trust Fund from contributions are available for disbursement only when assets of the Trust Fund exceed \$5 million, with only a maximum of 75 percent of these earnings and deposits available for disbursement if the assets are \$5 million or less. Both these bills provide that funds deposited in this trust fund, and earnings from the investment of these funds (after allowances for operating expenses), are available for disbursement upon authorization of the Division on Aging. However, in any year when over \$200,000 is deposited in this fund, 25 percent of the amount over \$200,000 and earnings from investment of these funds must be placed in a separate account. When assets of the separate account exceed \$5 million, no further deposits need be made to that account, and all future earnings from investment of monies in the separate account also are available for distribution upon authorization of the Division of Aging.

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